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Letter dated 6 November 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 April 2003 (S/2003/446).

The Counter-Terrorism Committee has received the attached third report from Slovenia submitted pursuant to paragraph 6 of resolution 1373 (2001).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 2 July 2003 from the Permanent Representative of Slovenia to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

On the instructions of my Government and further to the letter dated 4 April 2003 from the Chairman of the Counter-Terrorism Committee, I have the honour to transmit additional information on the questions and comments raised in his letter concerning the reports of the Republic of Slovenia on counter-terrorism measures pursuant to Security Council resolution 1373 (2001), submitted to the Committee on 27 December 2001 and 12 July 2002 (see enclosure).*

The Government of the Republic of Slovenia stands ready to provide any further information requested by the Counter-Terrorism Committee.

(*Signed*) Roman **Kirn**
Ambassador
Permanent Representative of the
Republic of Slovenia to the United Nations

* Annexes are on file with the Secretariat and are available for consultation.

Enclosure

2nd Supplementary Report of the Republic of Slovenia on Counter-Terrorist Measures Pursuant to the UN Security Council Resolution 1373 adopted on 28 September 2001

AD 1. – Implementation measures:

- **Sub-paragraph 1.2:**

1. 2. Effective implementation of sub-paragraph 1 (b) of the Resolution requires a State to have in place provisions specifically criminalising the wilful provision or collection of funds by its nationals or in its territory, by any means, direct or indirect, with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts. For an act to constitute an offence as described above it is not necessary that the funds are actually used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The acts sought to be criminalised are thus capable of being committed even if:

- ***The only related terrorist act takes place or is intended to take place outside the country;***
- ***No related terrorist act actually occurs or is attempted;***
- ***No transfer of funds from one country to other takes place; or***
- ***The funds are legal in origin.***

The current provisions in the law of Slovenia, in particular articles 27 and 297 of the Penal Code of Slovenia, referred to at page 3 of the supplementary report, do not appear adequately to meet the aforementioned requirements. The CTC would welcome receiving particulars of the legal provisions which are in place to meet those requirements or, in their absence, an indication of the steps which Slovenia intends taking in that regard.

As we have stated in sub-paragraph 1 (b) of the initial Report of the Republic of Slovenia, it is almost completely possible to prosecute the financing of terrorism, as regulated in the International Convention for the Suppression of the Financing of Terrorism, in conformity with the legal provisions regarding the financing of terrorism enshrined in the General Provisions of the Penal Code regulating the participation in a criminal offence (Article 27 of the Penal Code) connected to other criminal offences from the Special Provisions section. However, the prosecution and punishment of a person, collecting financial funds in order to use them to commit a terrorist act, is not possible if the terrorist act was not carried out with the collected financial funds. This is why with the expected changes and amendments of the Penal Code Slovenia intends to constitute a new criminal offence of financing of terrorism which would capture all circumstances provided in Article 2 of the International Convention for the Suppression of the Financing of Terrorism and criminalise the provision or collection of funds with the intention of committing a terrorist act even if the act itself was not committed.

It is expected that the Act Amending the Penal Code will be submitted to the Government of the Republic of Slovenia in July 2003, and to the National Assembly of the Republic of Slovenia in September 2003. In view of the extensiveness of the proposed act we expect that the National Assembly will deal with it according to the standard three-reading procedure. Since the proposed act includes harmonisation with numerous international documents and partly interferes with the General Provisions of the Penal Code, a detailed discussion about individual proposed changes is expected, making the precise time of adoption of this act impossible to predict.

We agree with the CTC's opinion that Article 297 of the Penal Code does not meet the requirements of the aforementioned Convention adequately. At the same time we would like to stress that we did not suggest mentioning this Article when preparing the initial Report. We would like to explicitly point out the second paragraph of the answer in sub-paragraph 1 (b) (beginning with "In November 2001 Slovenia ...") taking into account the additional explanations above.

- **Sub-paragraph 1.3:**

Please outline the legal provisions in force in Slovenia which regulate alternative money transfer agencies or services or, in their absence, the steps which Slovenia intends taking in order to incorporate this aspect of the Resolution into its domestic law.

We do not have any alternative money transfer agencies or services in the Republic of Slovenia.

- **Sub-paragraph 1.4:**

Sub-paragraph 1 (c) of the Resolution requires that States freeze without delay the funds of persons who commit, attempt to commit, participate in or facilitate the commission of terrorist acts. The initial report mentions a legal procedure which is available in relation to funds derived from criminal offences (page 4) or held in the names of persons and entities identified in lists of the UN Security Council as being linked to terrorist activities (page 6) But Slovenia appears to have no legal provision for the freezing of funds, regardless of origin, that are suspected of being linked to terrorism, but have not yet been used for the commission of a terrorist act. Please provide particulars of the steps which Slovenia has taken, or proposes to take, to meet that requirement.

There is no legal provision for the freezing of funds, that are suspected of being linked to terrorism in the Penal Code of the Republic of Slovenia, but such provision can be found in the Law on Restrictive Measures (adopted in April 2001, the Official Gazette of the Republic of Slovenia 35/2001), which was amended by the Law on the Amendments to the Law on Restrictive Measures (adopted in June 2002, the Official Gazette of the Republic of Slovenia 59/2002) and decrees, issued on the basis of this Law (Government Decree on Measures against the Taliban from 4 October, 2001 and Government Decree amending the Government Decree on Measures against the Taliban from 4 April 2002).

The Law on the Restrictive Measures and the Law on the Amendments to the Law on Restrictive Measures state that the information (listed in Article 2a) about the persons (who are subject to the restrictive measures) should be reported to a special Interdepartmental working group for the implementation of restrictive measures and for the following of activities relating to the fight against terrorism (Governmental Decree dated 23 January 2003). The latter can forward the information, stated in Article 2a of this Law, to the United Nations and other international organizations (listed in Article 1), if this is necessary for performing the sanctions of the United Nations and other international organizations or associations, with which the Republic of Slovenia is obliged to cooperate.

The expected change of the Penal Code, which will criminalise the criminal offence of terrorism, will also solve the issue of those persons, terrorists and terrorist organizations, which are not on the list of the United Nations.

- **Sub-paragraph 1.5:**

Sub-paragraph 2 (a) of the Resolution requires each Member State, inter alia, to criminalise the recruitment of terrorists within its territory whether the recruitment occurs with a view to carrying out terrorist activities inside the country or abroad. In this regard, the first report drew attention to the General Provisions of the Penal Code, as well as to article 297 of that Code. However, the provisions referred to would appear to apply

only to cases pertaining to internal security. Furthermore, it will not always be the case that the person carrying out the recruitment will belong to a criminal or a terrorist organisation. It is also possible that recruitment to terrorist bodies will be brought about by deception, for example a representation that the recruitment relates to teaching and not to terrorism. Accordingly, the existing provisions in Slovenia do not appear fully to meet the requirement of sub-paragraph 2 (a) as regards recruitment. Please comment on the remedial steps which Slovenia has taken, or proposes to take in that respect.

The General Provisions of the Penal Code on aid, abet, and complicity, and Article 297 of the Penal Code can be applied to all criminal offences and not only in connection with those criminal offences pertaining to internal security.

Article 388 of the Penal Code, referred to in sub-paragraph 1 (b) of the initial Report of the Republic of Slovenia, explicitly addresses international terrorism ("against another country or international organisation"), while the General Provisions on aid, abet and complicity can be applied to all criminal offences listed in the Special Provisions of the Penal Code, and, therefore, also in relation to aid, abet and complicity regarding the criminal offence of international terrorism.

In addition, Article 297 does not criminalise a person establishing a criminal association or joining it only in case the association intends to commit criminal offences inside the Republic of Slovenia, but addresses the "intention to commit a criminal offence" in general.

Pursuant to Article 122 of the Penal Code this Code applies to citizens of the Republic of Slovenia even if they commit a criminal offence abroad and are caught on the Slovenian territory or extradited to Slovenia. In addition, Article 123 of the Penal Code can be applied to a foreign citizen who commits a criminal offence against another country or against another foreign citizen abroad, if they are caught on the territory of the Republic of Slovenia and not extradited to another country. Since the provisions of Articles 122 and 123 are part of General Provisions and do not contain any explicit limitations to specific criminal offences, they can be applied to all criminal offences listed in the Special Provisions.

- **Sub-paragraph 1.6:**

In addressing sub-paragraph 2 (g), the initial report states (page 11 and 12) that "the Republic of Slovenia drafted a Bill amending the Aliens Act". The CTC would appreciate receiving a progress report on the enactment of the aforementioned provisions into the domestic law of Slovenia.

The Republic of Slovenia regulated this area with the Aliens Act (the Official Gazette of the Republic of Slovenia numbers 61/1999 and 87/2002) and with the Instructions on Refusal of Entry, Conditions for Issuing Visas at Border Crossings, Conditions for Issuing Visas based on Humanitarian Reasons and Annulment of Visas (The Official Gazette of the Republic of Slovenia number 2/2001). The following provisions explicitly refer to the aforementioned resolution (the Aliens Act articles are only partially summarised):

Article 7

For the purpose of entering and staying in the Republic of Slovenia, aliens must be in possession of a valid travel document, unless otherwise determined by law or by an international agreement.

Article 8

In addition to the valid travel document specified in Article 7 of this Act and in order to enter the Republic of Slovenia, aliens must be in possession of a visa or residence permit, unless otherwise determined by law or by an international agreement.

The Government of the Republic of Slovenia can issue a decree stating that citizens from specific countries can enter and leave the Republic of Slovenia without a visa.

Article 9

Aliens shall be refused entry into the country, notwithstanding the fulfilment of requirements from Articles 7 and 8, if there are serious reasons to suspect that they pose a threat to public order and peace, and to the security and international relations of the Republic of Slovenia, or if there is a suspicion that their presence is associated with the carrying-out of terrorist and other violent activities, illegal intelligence activities, drug possession and trafficking, or other criminal activities.

These reasons are defined in detail in Articles 3 and 4 of the Instructions on Refusal of Entry, Conditions for Issuing Visas at Border Crossings, Conditions for Issuing Visas based on Humanitarian Reasons and Annulment of Visas (if there is a suspicion that their presence is associated with the carrying-out of terrorist and other violent activities, illegal intelligence activities, drug possession and trafficking).

The refusal of entry shall be entered in the alien's travel document and shall be entered in the record of persons who have been refused entry.

Article 10

In addition to personal, vehicle and item checks in accordance with the act governing control of the state border, the border control of aliens entering the country shall consist of a thorough examination of whether there are reasons for refusing entry into the country on the basis of Article 9 of this Act.

The border control of aliens leaving the country shall, in particular, comprise control required for protecting domestic and international interests of the Republic of Slovenia, public peace and order, and examination of whether there are reasons for refusing departure from the country.

Article 20

An alien shall not be issued with a visa if there are reasons for refusing entry in accordance with Article 9.

Article 43

This Article explicitly provides that the permit for residence in the Republic of Slovenia shall not be issued to an alien if there are reasons to reasonably suspect that they pose a threat to public order and peace, and to the security and international relations of the Republic of Slovenia, or if there is a suspicion that their presence is associated with the carrying-out of terrorist and other violent activities, illegal intelligence activities, drug possession and trafficking, or other criminal activities.

Article 44

A residence permit may be annulled by the body which issued this permit if it is subsequently determined that there were reasons for refusing to issue a permit; if reasons subsequently arise for refusing to issue a permit; if the alien concerned intentionally submitted incorrect data on their identity or other inaccurate data, or if he/she intentionally concealed circumstances which have a bearing on the issuing of a permit.

The competent body shall issue a decision on the annulment of a residence permit. An alien may file an appeal against the decision with the ministry responsible for the interior within eight days of the decision being handed down.

Article 48

Residence may be annulled with respect to an alien who is in possession of a residence permit in the Republic of Slovenia if there are well-founded reasons for believing that the alien concerned may pose a threat to national security or to public security and peace.

Article 50

An alien who has to be deported from the country shall be brought to the state border by the police and directed across the border. The police shall also bring to and direct across the state border an alien who is being deported on the basis of an international agreement.

Article 76

An alien who is in possession of a permanent residence permit in the Republic of Slovenia may be issued with a travel document for aliens if the person concerned is stateless, or if the person does not have and cannot acquire a valid travel document from his/her country of origin. A travel document for aliens may also be issued to other aliens who do not have a valid travel document, if well-founded reasons exist for this.

Article 79

This Article provides conditions for refusal to issue travel documents for aliens and their seizure.

Article 80

This Article provides conditions for issuing personal identity cards for aliens and reasons for their seizure.

For a more efficient implementation of measures regarding refusal to issue residence permits to aliens whose presence could be connected with committing terrorist acts, Article 43 of the Aliens Act provides that the residence permit in the Republic of Slovenia shall not be issued to an alien if there are well-founded reasons to suspect that they pose a threat to public order and peace, and to the security associated with the carrying-out of terrorist and other violent activities, illegal intelligence activities, drug possession, or other criminal activities.

- **Sub-paragraph 1.7:**

Please provide a progress report on the ratification of the 4 international instruments relating to terrorism to which Slovenia has not yet become a party.

1. On 18 December 2002 the National Assembly of the Republic of Slovenia **ratified** the International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997), which was published in the Official Gazette of the Republic of Slovenia – MP number 1/2003 (the Official Gazette of the Republic of Slovenia number 2/2003).

2. **On 18 June 2003 the National Assembly of the Republic of Slovenia** ratified **the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 10 March 1988).**

3. On 18 June 2003 the National Assembly of the Republic of Slovenia **ratified** the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988).

4. The ratification of the International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999) is related to the changes in the criminal legislation of the Republic of Slovenia (see explanation in sub-paragraph 1.2).

The ratification of the International Convention for the Suppression of the Financing of Terrorism lies within the competence of the Ministry of Justice of the Republic of Slovenia. A minor part of the Slovenian criminal legislation (criminalisation of financing of terrorism if a relevant terrorist act was not committed) is not in line with the Convention. This is why the Penal Code needs to be aligned with the Convention before adopting the Act Ratifying the Convention. It is expected that the Act Ratifying the Convention will be proposed simultaneously with the changes regarding the Penal Code.

- **Sub-paragraph 1.8:**

The CTC has noted, from the supplementary report (at page 9), that Slovenia has established a "governmental inter-ministerial coordination of counter-terrorist measures". The supplementary report further states that the task of the inter-ministerial coordination is to provide guidelines, as well as coordinate and monitor, all the counter-terrorist measures and activities of state-run bodies in Slovenia. The CTC would appreciate receiving more information, including examples of practical nature, concerning the work of the inter-ministerial coordination.

On 11 May 2001 the National Assembly of the Republic of Slovenia adopted a Restrictive Measures Act, which was amended on 21 June 2002. The Government of the Republic of Slovenia established an Interdepartmental working group for the implementation of restrictive measures and for the following of activities relating to the fight against terrorism.

By establishing the aforementioned working group Slovenia upgraded the existing "governmental inter-ministerial coordination of counter-terrorist measures" and made progress in dealing with issues related both to terrorism and to restrictive measures systematically. The interdepartmental working group is responsible both for the implementation of restrictive measures provided by Government decrees and for monitoring the activities related to the fight against terrorism. The working group is headed by a state secretary at the Ministry of Foreign Affairs and composed of representatives of the Office for Money Laundering Prevention, Ministry of the Economy, Ministry of Justice, Ministry of the Environment, Spatial Planning and Energy, Ministry of the Interior, Ministry of Health, the Customs Administration of the Republic of Slovenia, Ministry of Defence, Ministry of Transport and the Bank of Slovenia.

The Government of the Republic of Slovenia can, following a proposal of the aforementioned working group, take a decision to adopt or revoke restrictive measures against specific countries regarding the obligations determined by provisions of international law. There are two kinds of binding obligations that need to be constantly upgraded or alternated according to the changes of the situation:

- new notices regarding changes of the UN restrictive measures (revocations, changes, new measures) and the adequate amendments of Governmental decrees, and
- the EU restrictive measures.

Common action at national level is very important, since it represents active involvement of all governmental sectors dealing with the fight against international terrorism. This kind of common action also includes:

- **Interdepartmental working group for the implementation of restrictive measures and for the following of activities relating to the fight against terrorism,**
- Interdepartmental working group for the implementation of the Act Regulating the Exports of Dual-Use Goods provisions,

- Interdepartmental cooperation between the Ministry of the Interior of the Republic of Slovenia and the Ministry of Defence of the Republic of Slovenia.

It is also worth mentioning the successful cooperation between all three security subjects of the Republic of Slovenia bound by the Slovenian legislation regulating relations between individual ministries.

- **Sub-paragraph 1.9:**

The CTC is aware that Slovenia may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other international organisations involved in monitoring international standards. The CTC would be pleased to receive a copy of any such report or questionnaire as part to Slovenia's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of resolution 1373.

In April 2003 the Republic of Slovenia submitted a report based on the OSCE Code of Conduct on Politico-Military Aspects of Security which also included a special chapter on terrorism.

On 18 April 2003 the Government of the Republic of Slovenia adopted a report of the Republic of Slovenia on the implementation of sanctions against the Taliban and Al Qaida pursuant to the UN Security Council Resolution 1455 (2003), which was submitted to the UN Sanctions Committee established after the UN Security Council Resolution 1267 (1999). This report was published as a UN Security Council document on 24 April 2003 under reference number S/AC.37/2003/(1455)/34.

The Republic of Slovenia is also submitting answers to two Council of Europe questionnaires, namely the Council of Europe Questionnaire on Special Investigation Techniques in relation to Acts of Terrorism and the Council of Europe Questionnaire on the Protection of Witnesses and "Pentiti" in relation to Acts of Terrorism.

Ljubljana, June 2003